

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-212853

DATE: September 14, 1983

MATTER OF: M/A-COM Sigma Data, Inc.

DIGEST:

GAO will not consider a bid protest when the issues presented are before the U.S. District Court and the court has not expressed an interest in such a decision.

M/A-COM Sigma Data, Inc. protests the Veterans Administration's (VA's) failure to request its best and final offer for video display terminals for use in VA medical centers, alleging that its response to request for proposals No. 101-15-83, issued May 16, 1983, met all technical requirements. We dismiss the protest.

Two days after protesting to our Office, M/A-COM Sigma Data learned that on August 26, 1983, the VA had awarded a contract for the equipment in question to Equis Data Processing, Incorporated, whose offered price, \$9.7 million, was "substantially" more than its own. The firm filed suit in the U.S. District Court for the District of Columbia (Civil Action No. 83-2590), alleging that its elimination from competition for failure to meet two mandatory requirements was arbitrary, capricious, and without a rational basis. It sought, among other things, temporary and permanent injunctions against performance by Equis, termination of Equis' contract, and reopening of negotiations.

While M/A-COM Sigma Data advised the court that it had protested to our Office, its application for a temporary restraining order clearly indicated that it sought such relief to "allow the court to hear and consider the parties' arguments on the merits." The temporary restraining order was granted on September 2, 1983, and the court has set a date for a hearing on a preliminary injunction.

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When, as here, the basis for a civil suit is substantially the same as that presented in a bid protest, our Office will not consider the protest unless the court requests, expects, or otherwise expresses an interest in our decision. 4 C.F.R. § 21.10 (1983).

Since M/A-COM Sigma Data has not requested that the court seek our opinion, and the court has not otherwise indicated an interest in such an opinion, we dismiss the protest. See Harris Data Communications, Inc., B-210521, March 22, 1983, 83-1 CPD 291; Tadiran Israel Electronics Industries, Ltd., B-210810, March 15, 1983, 83-1 CPD 260.

Harry R. Van Cleve
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Acting General Counsel